

Serial No. 10/766,955

REMARKS

In accordance with the foregoing, claims 1, 2 and 3 have been amended in similar fashion in sub-paragraphs (a) and (d) of each to clarify patentably distinctive features of the invention.

Further, claims 6 and 7 have been amended commonly to correct recited dependencies therein to claim 3 (noting that claim 4, depends, correctly, from claim 1).

No new matter is presented and, accordingly, approval and entry of the foregoing claim amendments are respectfully requested.

ITEM 3: TITLE

A new title has been provided responsive to Item 3 of the Action.

ITEM 4: CLAIM OBJECTIONS TO CLAIMS 4-7

Claims 4-7 are objected to as being of improper dependent form, for allegedly failing to further limit the subject matter of a previous claim.

The rejection is respectfully traversed.

Particularly, sub-paragraph (a) of claim 1 recites inputting a timed software component "described in a C-based language...."

Independent claim 2, sub-paragraph (a), recites inputting a timed software component "constructed from binary code native to the host CPU...."

Further, independent claim 3 sub-paragraph (a) recites a combination of the above distinguishing limitations respectively of claims 1 and 2 and particularly both: "...a timed software component described in a C-based language..." and "a timed software component constructed from binary code native to the host CPU....inputting a timed software component "described in a C-based language...." These recitation clearly delineate between the respective independent claims 1, 2 and 3.

Claims 4, 5 and 6 depend respectfully from independent claims 1, 2 and 3 and accordingly inherit the distinctions of those respective distinct independent claims.

These dependent claims furthermore introduce respective, distinguishing recitations.

For example, claim 4/1 recites:

Serial No. 10/766,955

inputting the untimed software component described in
ANSI-C...and generating binary code native to a target
CPU....

By contrast, claim 5 recites:

recognizing basic blocks and inserting control points...; and
computing execution time between the control
points...and...inputting the untimed software
component constructed from the binary code native to
the host CPU....

Claim 6 on the other hand recites:

outputting the timed software component described in the
C-based language

Finally, claim 7 recites:

inserting, in accordance with the computed execution
time, binary code functionally equivalent to an execution
time insertion statement at each of the control points
inserted in the software component, and thus outputting
the timed software component constructed from the
binary code native to the host CPU

Numerous other delineating recitations appear as between the respective dependent
claims as well.

Accordingly, it is submitted that the claim objections of Item 4 have no basis and, instead,
those claims do further limit the subject matter of their respective independent claims from which
they depend. Accordingly, withdrawal of the objection of Item 4 is respectfully requested.

ITEM 8: REJECTION OF CLAIM 1 FOR ANTICIPATION UNDER 35 U.S.C. 102 (b) BY
SEMERIA et al

The rejection is respectfully traversed.

Independent claims 1, 2 and 3 as now amended clarify two separate and independent
features of the inventions as defined by the independent claim including particularly:

(a)...wherein an interrupt routine scheduler is input that is equivalent to an
interrupt processing section of an instruction set simulator but is provided as an
independent unit...; and

Serial No. 10/766,955

(d) ... performing a C-based native code simulation without pre-construction interpretation and execution, based on an executing program generated in step (c)...

It is respectfully submitted that Semeria is devoid of any teaching or suggestion of either of the foregoing features.

ITEM 9: REJECTION OF CLAIMS 2-7 FOR OBVIOUSNESS UNDER 35 U.S.C. 103 (a) OVER SEMERIA et al. IN COMBINATION WITH BADE (USP 2002/0059054)

The rejection is respectfully traversed.

THE ACTION IS DEVOID OF ANY *PRIMA FACIE* DEMONSTRATION OF THE OBVIOUSNESS OF THE COMBINATION RELIED UPON IN SUPPORT OF THE REJECTION OF ITEM 9

The Action advances solely the deficient contention that "it would be been obvious to one of ordinary skill in the art... to have used Bade et al. to teach the specific subject matter Semeria et al. does not teach...." (See e.g. page 6 as to claim 2, page 8 as to claim 3; page 9 as to claims 4 and 6 and pages 10-11 as to claims 5-7). Nowhere does the Action even propose that one of skill in the art would have been motivated to effect the combination by any teaching derived solely from the references relied upon, as is the mandate of the MPEP. See MPEP 706.02(j) which emphasis that the Examiner should set forth in the Office Action:

(A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,

(B) the difference or differences in the claim over the applied reference(s),

(C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and

(D) an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's

Serial No. 10/766,955

disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.

CONCLUSION

It is submitted that the foregoing has demonstrated that the pending claims patentably distinguish over the references of record, taken singularly or any proper combination. There being no other objections or rejections, it is submitted that the application is in condition for allowance which action is earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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on June 12, 2006

STAAS & HALSEY

By: b/r/2006

Date: 6/12/06